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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,486	04/01/2004	Axel Widemann	P06727US0	8497

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EXAMINER

LESLIE, MICHAEL S

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/815,486

Applicant(s)

WIDEMANN, AXEL

Examiner

Michael Leslie

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☒ Claim(s) 4,6 and 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/25/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

Claim 6 is objected to because of the following informalities: Line 4, "a stop" should be --the stop--. Appropriate correction is required.

Claim 10 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 3, 9, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "significantly" in claims 2 and 9 is a relative term which renders the claim indefinite. The term "significantly smaller" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The outside diameter of the stem-shaped central part, pressure difference between the high and low pressure lines, and the volume of flushing flow have been rendered indefinite.

Claims 3 and 11 are indefinite due to their dependence from claims 2 and 9, respectively.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Izumi et al (4531369).

Izumi et al discloses a hydraulic spool valve (4) having a spool valve piston (4b) in a housing bore (4a), a compression spring (4c, 4d) on each end of the spool valve piston, two inlet bores (4j, 4k), an outlet bore (4L), and a stop (~4e) for limiting spring expansion. Wherein the springs are helical springs inserted into spring bores having the stop in the form of an annular shoulder, the spool valve is a flushing spool valve in a hydraulic vehicle installed into a hydraulic motor (2) (Fig. 1).

Claims 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Izumi et al.

Izumi et al discloses a hydraulic vehicle drive having a closed hydraulic circuit including a variable displacement pump (1), a hydraulic motor (2), and two lines (A, B) fluidly connecting the pump and motor, a flushing spool valve (4) situated parallel to the motor, and a flushing-pressure limiting valve (5) connected to the low-pressure line via the flushing spool valve. The drive further includes a filling pump (6) for supplying feed pressure for the closed circuit and a flushing-pressure limiting valve (9) connected to the feed pressure circuit via a connecting line.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi et al in view of Mangano et al (6295811).

Izumi et al discloses a hydraulic spool valve as described above with respect to claim 1, but does not teach that the springs are situated in separate spring housings connected to the housing and closed by closure screws.

Mangano et al discloses a hydraulic spool valve having a spool valve piston, compression springs on both ends of the spool valve piston, and a stop for limiting spring expansion, wherein the springs are situated in separate spring housings (10A, 10B) connected to the housing and closed by closure screws (not numbered).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hydraulic spool valve of Izumi et al by situating the springs in separate spring housings connected to the housing and closed by closure screws as taught by Mangano et al for the purpose of facilitating maintenance.

Allowable Subject Matter

Claims 2 and 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 3846982, 4341133, and 6339928 each disclose a flushing valve in a hydraulic vehicle drive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3745

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML

June 8, 2005



Michael Leslie
Patent Examiner
AU 3745



EDWARD K. LOOK
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6/11/05